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THE TAXATION OF CHURCH PROPERTY.

A QUESTION of great local interest, as connected with this subject, has just been settled by a unanimous vote of both Houses of the Congress of the United States. The principles involved, however, in the local question have universal application, and are therefore of general interest.

The general tax law for the District of Columbia, passed by Congress in the year 1874, did not in express terms exempt churches from taxation. The law levied a tax on the present assessed value of all property not exempted, and contained no clause repealing former exemptions.

Under this act the Commissioners of the District created on their authority a board to assess the churches, and proceeded to enforce the tax ; and where the churches declined to pay the tax, for reasons hereafter to be stated, the Commissioners advertised and sold and bought in, in the name of the District of Columbia, all of the churches of the District, with three exceptions—the aggregate value of the church property being \$1,590,744, and the aggregate tax being in round numbers \$46,500.

The grounds upon which the churches declined to pay the tax were :

1. The churches had no “present assessed value,” had never been assessed, but always exempted ; and the act imposed a tax on the “present assessed value.”

2. The act contained no clause repealing the former exemptions ; notably the general exemption of 1870, which “exempted church property from any and all taxes.”

3. The act exempted “charitable and educational institutions,” and the churches claimed to be both charitable and educational.

A committee was appointed, consisting of Rev. Drs. Pitzer, But-

ler, and Bittinger, with Messrs. Pratt, Casey, and Ballantyne, "to present the whole subject to Congress, and procure, if possible, the passage of a bill to relieve the churches from this illegal tax, and to restore the titles to the trustees or other persons who held the same at the time of the tax-sale."

After prolonged and careful consideration of the whole subject, Congress has by a unanimous vote in both Houses passed the bill "to relieve the churches from this tax, and to restore to them their titles to their houses of worship."

The present law, as agreed upon by Congress and the committee representing the churches, is to exempt "only church-buildings in actual use for purposes of worship only, together with the ground on which they stand." All other property belonging to religious corporations not thus used is taxed equally with other taxable property. Or, if the church-building is used for purposes of business gains, the property is taxed to the extent of this use and value. All church property not used for purposes of worship is taxed just as other property. These results have been reached after more than three years of investigation and study by the highest legislative body of the land, and have been concurred in by the churches of the District of Columbia.

As has been remarked, the principles involved have a general application throughout this country, and even in all countries where there are houses of worship and property belonging to religious corporations. President Grant devoted part of one of his annual messages to Congress to the discussion of this question; the Legislatures of several large and influential Commonwealths have appointed special committees to examine and report on the subject of "church taxation"; ministers' meetings and church councils have discussed the reasons for and against exemptions; the press, both religious and secular, has kept the matter before the public; and it is evident that the policy of the past is to be thoroughly reviewed in the light of the present.

The census of the United States for 1870 gives the total value of church property in the United States in round numbers at three hundred and fifty million dollars. The shrinkage in the value of property since then would be made up in the natural growth and increase of the churches in these nine years, so that perhaps the result of the census of 1880 will not differ materially from that of 1870.

This property is distributed among the larger and leading de-

nominations as follows : the Baptists hold forty millions of church property ; the Methodists, seventy millions ; the Presbyterians, forty-seven millions ; the Roman Catholics, sixty millions ; the Episcopalians, thirty-six millions ; the Congregationalists, twenty-five millions ; the Lutherans, fourteen millions. Various smaller bodies hold the remainder of the three hundred and fifty millions.

All kinds of religionists hold and use church property on terms of equality. In this matter all are treated alike ; there are no distinctions on account of creed, color, or condition : Jews and Gentiles, Christians and Mormons, Romanists and infidels, white and black, have just the same rights and privileges. If this property were divided *per capita*, each person in the United States would have about nine dollars' worth.

It is a question, however, whether the value of church property does actually aggregate so much as three hundred and fifty million dollars.

The only true test of values is, What will the property bring in the market ? and, estimated by this test, the value of all church property in the United States will fall far below the sum given in the census.

As a general rule, churches have no market value. The ground, of course, is worth about as much as that in the adjoining lot ; the building is almost worthless for any other purpose than that for which it was erected, and, when sold, generally brings no more than its worth as old building-material. Of course, there are exceptions to this general rule, and some churches that can be utilized, at small cost, for other purposes, sometimes command high prices, and bring the full amount of what they cost. It is seldom that any house of worship will sell for as much as it cost to build it. And, if the census valuation is based on the cost of the churches, it is far too high. It is more than likely that all the church property in the United States would not, to-day, yield, if sold at public sale, so much as two hundred million dollars.

The real issue, however, now before the country is, not how much property do the churches own, but shall this property, much or little, be taxed, just as other property is ? Will it advance or retard the interests of the State to impose a tax on church property of every description, just as other property is taxed ? It should be remembered that the State in this country does not know or recognize the Church as such. Owing to the separation of state and church, trustees are elected or appointed by the churches to hold

property in trust for the use of the congregation ; and these trustees are recognized by the civil authorities, and dealt with just as other trustees are. The uniform policy of the State has been to exempt these trustees from the payment of taxes, because of the uses to which the property held by them was applied.

The Church, as such, has never asked, much less demanded, of the State exemption from the payment of taxes.

The Church has never put forth the plea that it was the Church of God, that its property was used in his worship, and was not, therefore, amenable to the laws of the Commonwealth. It has never claimed that the State ought to favor any particular form of religion, or that it ought to aid in the support of any church. The Church, as such, has never advanced or urged any claims whatever on this subject ; nor does she now demand of the State recognition or support. "God alone is Lord of the conscience," and every man must be absolutely free to worship or not worship. The State can not enjoin a religion on men.

It is needless to argue the question that it is detrimental to the interests of the State to permit any corporation or body of trustees to hold, free from taxation, large amounts of property *unused*, no matter for what purposes such property is held in trust.

History is filled with warnings as to the great injury inflicted upon the state by allowing, free from taxation, religious corporations to acquire and hold large amounts of real estate, not actually used for purposes of religious education and charity. In some instances one half of the landed estate of the realm has been held, free of taxes, by religious corporations or orders, and so held as to be inalienable for ever—held by *mortmain*, "the dead hand."

The danger in this country from the operation of a like principle is not quite so small as some persons think. There are large amounts of real estate and other values, not in actual use for any purpose, held by corporations and other bodies, free from taxation, with a grasp almost as tight and unyielding as the *mortmain*. And in some cities and States the political power of such bodies is so great that the civil authorities make annual appropriations for their benefit. The press of the land is to be commended for constant watchfulness of such appropriations.

In many States the amount that may be held by any religious body is carefully limited by law, and this provision seems a wise and proper one. When the State grants privileges or aid to any

one body or corporation, not granted to all, it is guilty of gross injustice and wrong.

As a matter of fact, the State, meaning by State the civil power, has from the very beginning of government in this country, and in all of its branches, whether national, State, or municipal, exempted churches from the payment of taxes ; and let it be remembered that this exemption was made, not upon application or demand of the Church, but was made by the State on its own motion, of its "own free will and accord."

The right of the State to tax all property under its jurisdiction has never been questioned. No property of any sort may demand of the State, as its right, exemption from "bearing its fair proportion of the burdens of government."

But the right of the State to tax any property involves of necessity the corresponding right to exempt any property from taxation. If this proposition is denied, and the assertion is made that the State has no right to exempt churches from taxation, then it must be admitted that the State has the unchallenged and undoubted right to fix the rate at which all kinds of property shall be taxed ; and it may fix the rate of church taxation at so small an amount as to be, practically, exemption.

It is also said that, if the State exempts churches from taxation, it thereby contributes to the support of religion, thus creating a union of church and state, which is contrary to all the principles of American government, and subversive of the Constitution itself.

If this assertion be true, it is most remarkable that the founders of the Government and the framers of the Constitution never once saw that they were acting upon this vicious principle when they made the exemption of churches from taxation a prominent feature in all their legislation ; for this exemption has been universal from the foundation of government in this land.

Strange that the leaders in the march of civil and religious freedom, the men who fought against the union of church and state, should have crossed the Atlantic Ocean and established the very principle which in their deepest souls they cordially detested, and against which they embarked their lives, fortunes, and honor !

If the exemption of churches be unconstitutional, then it is still more remarkable that every branch of Government, national, State, or municipal, legislative, executive, and judicial, has for more than a century acquiesced in and endorsed this unconstitutional enact-

ment. What has been done for one hundred years throughout the length and breadth of this land, by all men of all parties, races, and creeds, ought to be regarded as a fair interpretation of constitutional law. Considered in this light, the exemption of churches is not unconstitutional, neither does it create or constitute a union of church and state.

And this uniform policy that has been pursued in the United States finds a sanction in the universal practice of all governments that have existed on this earth.

From the building of the city Enoch by Cain down to this day, no government has ever taxed the property used by the people for purposes of religious worship. In all lands, among all people, whether Jews or Gentiles, pagans or Mohammedans, Christians or Turks, savages or semi-barbarians, the worshipers paid no tax to the state upon what they held and used as sacred in their worship. Men have worshiped all manner of gods—Isis, Osiris, Baal, Moloch, Astarte, Buddha, Jupiter, Venus, the sun, the Nile, the cow, the serpent, the devil—but they have never been required by civil governments to pay a tax upon such property as was needful to their worship. If Pharaoh had issued an edict to tax the temple of On, the Egyptians would have seen to it that the dynasty was immediately changed. If Solomon had taxed the house of God at Jerusalem, his kingdom would have been dismembered before the reign of Rehoboam. If Cæsar had sent his deputy to assess and tax the temple of the great Ephesian Diana, a wiser man than the “town clerk” could not have appeased the people.

In the light of this universal usage, and the unchallenged exemption of churches by legislation in this country since its first settlement, it is an interesting question legally to what extent have the churches acquired vested rights which all courts are bound to respect and will respect.

If no *ex post facto* laws can be enacted, if vested rights have been acquired under contracts legally made, is it competent for legislative bodies to tamper with, much less to destroy, sacred rights that have been thus secured, and some of them enjoyed for more than a hundred years?

If certain persons under a special charter, or a general law of incorporation, invest money, and have it held in trust for certain uses, and, by compliance with the letter and spirit of the law, secure for themselves and successors rights of any kind, is it competent for subsequent legislation to divest them of these sacred rights?

The Supreme Court of the United States would scarcely enforce a tax upon any house of worship in any city or State, if, at the time the house was built, there was in force a law exempting such houses of worship from taxation. The decision of the Court in such a case, if carried up on appeal, would be more than usually interesting reading.

The question has doubtless suggested itself already, Upon what principle and for what reasons has church property been thus universally exempted from taxation? Why has civil government in all ages and among all people exempted from taxation that property of its citizens held and used for purposes of religious worship?

The origin of this exemption is, doubtless, to be sought and found in the imperishable and indestructible religious element of man's nature. Whatever else man may be, he is a religious creature—he has a god of some kind, and a worship of some kind. And perhaps it was an instinctive feeling of this religious element that whatever was used in the worship of the gods was, by that very use, separated from the ordinary laws and usages of business and property; and to subject such property to the ordinary laws of taxation seemed almost, if not altogether, sacrilege.

But it is not the purpose of this article to enter upon this line of investigation, but to answer, if possible, the specific question, “Upon what principle can the civil authority in the United States justify its exemption of church property from taxation?”

If the State has the right to tax or to exempt from taxation any and all property, then it may be assumed as almost an axiom *that, whenever and wherever the exemption of certain kinds of property will be of more benefit to the State than the taxation of such property, it is not only the right but it becomes the duty of the State to make the exemption.*

The State has always exempted from taxation other classes of property than churches—notably, reform-schools, and institutions for reclaiming the young of both sexes from criminal lives; hospitals for the aged, the blind, the deaf and dumb, the indigent, the insane; colleges and seminaries; and the burial-places of the dead.

No clamor has been raised because this class of property has been free from the payment of taxes.

When benevolent men and women came forward, and donated lands and money to erect houses and provide funds, so that the youth of the land might have an opportunity to return to the paths

of virtue ; so that the blind, the indigent, the homeless, and helpless might have food, raiment, and shelter ; so that the dead might rest in their graves free from the tax-collector's visits—when property was thus given and used, all men felt that the founders of such institutions and the property thus given were both “bearing their fair proportions of the burdens of government,” and that it would be unjust and brutal to subject such property to the ordinary laws of taxation. It was felt by all men to be the duty of the Government to encourage such blessed helpers and helps by exempting such property from taxation.

It is lightly said, in these days, “Oh ! tax all property of every kind alike.” Will the men who thus speak stand in the presence of any intelligent audience and advocate the taxation of some favorite orphan asylum, where scores and hundreds of fatherless and motherless children are watched over with the tenderest love and most incessant care ? Will these men stand before the living, and argue and urge that the old graveyard, hoary with age and moss and faded tombstones, shall pay its annual tax into the coffers of the State ? Will these men plead that the schools founded by noble philanthropists for public education shall be taxed equally with the brewery and the distillery ? Will these men teach that the homes where the aged of both sexes, indigent and almost friendless, are sheltered, shall be taxed equally with beer-gardens and billiard-saloons ? Which will yield the largest benefit to the State, to the welfare and prosperity of all the citizens, to tax or to exempt from tax this class of property ? Does not every intelligent man know that all such property is bearing its proper part of the burdens of government, indirectly, it is true ; and that the exemption is worth far more to the State than any tax would or could possibly be worth ?

It has been recognized and admitted, by thoughtful men of all parties and creeds, that it was a wise and righteous thing for the State to exempt from taxation property given and used for purposes of public reformation, public charity, and public education. If patriotic and charitable citizens could be found who would give lands, buildings, and moneys, for the education, the reclamation, and the relief of the ignorant, the criminal, and the indigent classes of the community—saving thereby to the State thousands of dollars annually in taxes to aid and relieve these very classes of persons—then it would be the duty of the State to encourage these patriotic citizens, at least, to the extent of exempting such property from

taxation. Were it not for the existence of such institutions in all parts of the land, it is easy to see that the general taxes of the people would be largely increased, in order to fill the places occupied by these institutions, and to perform the educational, reformatory, and charitable work now done by them. All such property does bear its just proportion of the burdens of government, and no lengthy argument is needed to vindicate the wisdom and righteousness of its exemption from taxation. This policy of exemption has been one of the most potent causes in increasing the number and efficiency of such institutions. Let the question be seriously pondered, Will a tax on hospitals, asylums, reform-schools, etc., increase or diminish the revenues of the State? and perhaps but one answer will be given by those who think, and that answer will be, "A tax on such property will not add to but will decrease the revenues of the State."

It would seem to be the highest wisdom and the best policy, on the part of the State, to exempt from taxes property used for purposes of education, reformation, and charity.

And if this be so, then the inquiry is raised, Does church property belong to either one of these categories, or does it include, in fact, all three? Is the Church an institution of reform, of education, and of charity? Is church property used for purposes of reformation, of education, and of relief?

Every church in this land is, to a greater or less degree, a reform-school—is a place where efforts are unceasingly made to win back men from vice and crime, and where all the sanctions of God, of moral law, and eternal retributions, are brought to bear upon the minds and hearts of men, women, and children, the old and the young, to save them from crime, and to keep them in the paths of truth and virtue. If it be alleged that the Church, both in its members and ministers, has furnished some of the most notorious examples of criminality, the fact is admitted; but two comments are made: 1. These persons became criminals not because of, but in spite of, the teachings of the Church; and, 2. The number has been amazingly small: the proportion of ministers, out of sixty thousand persons who were tried and convicted of crime during the past year, was *one fifty-seventh of one per cent.*

It is simply impossible to estimate the material benefits that accrue to the State from the influence of the Church in repressing crime and in reforming men. If this influence were entirely withdrawn from any community, property of all kinds would imme-

diately become worthless. Few men of sense would have invested in property in Paris in the time of the ascendancy of the Commune ; or in Zululand during Cetawayo's reign. Patriotic, benevolent, and lent, and God-fearing men have freely given lands and means to erect houses whence, day after day, an immense influence issues forth to repress lawlessness and to reclaim the wrong-doers ; it is wise and right for the State to say, This property thus used is bearing a fair proportion of the burdens of government, and it shall be free from taxation.

Besides this, the Church is, by the very law of its existence, a charitable institution. How much is saved to the State each year, in the matter of taxes to support the poor, by the charities of the Church, we have no means of estimating accurately. There are over sixty thousand churches in the United States, and it is safe to say that, on an average, at least one person would be supported in whole, or in part, by each one of these churches ; true, some of these churches would give nothing, but others would maintain scores of indigent persons ; so that we have the churches of our land cheerfully supporting each year at least sixty thousand persons ; relieving, by this immense amount, the State from additional taxation to support its poor.

Another matter to be carefully considered is that the Church is, *par excellence*, an educational institute. Her commission is, "Teach the nations."

Consider that to-day the Church has furnished for the use of the public, without the cost of one cent to the State, sixty thousand houses, where sixty thousand teachers—many of them trained and accomplished men, many of them of the very highest order of ability—teachers all of whom are supported entirely by the Church, without one dollar of aid from the Government ; and that these sixty thousand men devote all of their time, year after year, to the education of all who choose to come, in the highest and best of all knowledge.

Add to this the further fact that the Church has gathered into her one hundred thousand free Sabbath-schools not less than six million scholars, and not less than six hundred thousand teachers, and has furnished to these scholars and teachers five million books for free circulation, besides catechisms, lesson-helps, papers, reviews, and magazines innumerable. These figures give some faint idea of what the Church is doing as an educator in this country ; and let it be remembered that these schoolhouses, these

teachers, these books, these papers, are all given to the free and unrestricted use of the public, without the cost of one cent to the State.

The State imposes on her citizens heavy taxes to erect her public-school houses and to sustain her public-school system, and all school property is exempt from taxation. Here is an immense free-school system for the benefit of the entire public, conducted without expense to the State, and yet unthinking men flippantly exclaim, "Oh, yes, tax churches, tax all property alike!" When forty thousand Sabbath-school teachers and scholars march annually in Brooklyn at their May anniversary, let the observing bystander ask, "Why should this Brooklyn school system, so free, so beneficent, be taxed?"

If churches are to be taxed, then let it be understood that the axe must be laid also to the root of many other trees.

If reform, charitable, and educational institutes are exempted from taxation, then we ask upon what principle of equity and righteousness shall the Church, which combines in herself all three of these features in a preëminent degree, be subjected to taxation? Nay, is not the Church, in some sense, the mother of all reform and charitable institutions, of all hospitals and asylums that exist? Why shall the daughters go free, and the mother of them all be taxed?

Some industries and institutions are esteemed of so much benefit to the State that not only are they exempted from taxation, but "protective laws" are enacted to encourage and foster them. And thus the State virtually pays a bonus for their existence and support; but there is no general outcry at the iniquity of this procedure. And yet there are many who exclaim at the injustice of the State when churches, the most beneficent of all institutions, are simply exempted from the payment of taxes.

Churches are generally built for the benefit of the public by the gifts of liberal-minded and patriotic citizens; they are not built for individual gain or profit, they are not conducted for the purpose of money-making; they are open to all who choose to come. The money necessary to erect and sustain them is donated to the cause of God and man; it passes away entirely from the donors; the title is vested in trustees for uses of worship, for the well-being of the whole public; and every man, whether he recognizes the fact or not, has an interest in every church in the land. The Church has never in this country asked aid from the State; on the

contrary, the State has received, indirectly it is true, thousands of dollars annually from the Church in the support of the Government.

As has been already indicated, there is abundant room for reform on this subject. Let all church property held for speculation or business gain, all property not in actual use for religious purposes, be subjected to taxation; let the State withdraw all aid heretofore given to sectarian institutions; let the amount of property to be hereafter held by any religious corporation be limited by express legislation; let no special charters, containing special privileges, be granted, except in a very few cases, where the equities are beyond dispute; let the Church learn to build less costly houses of worship; let her abolish the pew system, and make all sittings, as they ought to be, absolutely free to the general public; let the masses be convinced that the Church is sincerely and earnestly seeking their good; let the Church cease from all attempts to exercise political influence and to dictate the policy of the State in secular matters, and we shall come much nearer to a solution of this question that will be satisfactory to all concerned.

Unless we are much mistaken, the principle adopted by the Federal Legislature will be generally adopted, viz.: Tax all church property not in actual and exclusive use for purposes of public religious worship; exempt from all taxation all property that is thus held and used.

The following brief propositions contain an imperfect summary of the subject:

1. The value of church property has been largely over-estimated.
2. It has been the uniform policy of the State in this land to exempt churches from taxation.
3. The Church has never demanded this exemption, but the State has spontaneously granted it.
4. The exemption was granted upon grounds of public policy, as being for the best interests of the Commonwealth.
5. The Church does indirectly bear its fair proportion of the burdens of government.
6. The exemption of churches does not violate the letter or spirit of the Constitution.
7. The Church is a reform, charitable, and educational institute; and if, as such, she is taxed, then must other such institutions be taxed.

8. The Church by her schools and charities saves to the State annually thousands if not millions of dollars.

9. Churches are not erected for purposes of gain, but for the general good.

10. If the uniform policy of the entire human race on this subject is to be reversed, it ought to be after mature deliberation, and for good and sufficient reasons.

A. W. PITZER.